



BORG WARNER INC.  
PATENT DEPARTMENT  
POWERTRAIN TECHNICAL CENTER  
3850 HAMLIN ROAD  
AUBURN HILLS, MI 48326-2872

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SEP 06 2006

OFFICE OF PETITIONS

In re application of :  
Georg Scholz et al. :  
Application No. 10/706,180 :  
Filed: November 12, 2003 :  
Attorney Docket Number: DKT02151 :

ON PETITION

This is a decision on the petition, filed May 12, 2006, under 37 CFR 3.81(b)<sup>1</sup> to correct the assignee's name and the assignee's attorney information on the front of the Patent.

The petition under 37 CFR 3.81(b) is **DISMISSED**.

Petitioner states that the correct assignee's name is BorgWarner Inc. and that the incorrect assignee's name as well as information regarding the assignee's attorney was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that upon issuance, the correct assignee and assignee attorney information be indicated on the front page of the Letters Patent.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. 37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

It is noted that when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these requests before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

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<sup>1</sup> See Official Gazette of June 22, 2004

The petition however, is not accompanied by a certificate of correction form or the fee as required by 37 CFR §§ 1.323 and 3.81(b) and thus is not grantable.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop Petitions  
                                    Commissioner for Patents  
                                    P.O. Box 1450  
                                    Alexandria, VA 22313-1450

By FAX:                      (571) 273-8300  
                                    Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions